

REMARKS/ARGUMENTS

In response to the Final Office Action mailed July 10, 2009, Applicant proposes to amend his application and requests reconsideration in view of the proposed amendments and the following remarks. In this response, Claim 19 is proposed to be amended, no claims have been cancelled without prejudice, and no claims have been added so that Claims 19-35 remain pending. No new matter has been added.

Claims 19-21 and 24 were rejected as being unpatentable over Faxon in view Tardif. This rejection is respectfully traversed.

Faxon discloses stents, polymers and drugs for treating restenosis. Various polymers are disclosed. Faxon also discloses the use of a rapamycin.

Tardif discloses the prevention of restenosis with antioxidants.

In order to make a finding of obviousness, an Examiner must (1) determine the scope and content of the prior art, including non-analogous art if it is in the field of endeavor reasonably related to the particular problem to which the claimed invention is directed, (2) ascertain the differences between the claimed invention and the prior art, considering both the prior art and claimed invention as a whole, and (3) resolve the level of ordinary skill in the art at the time of the invention, factoring in the creativity that one of ordinary skill in the art would employ as well as the Examiner's own knowledge and technical expertise.

It is respectfully submitted that the references taken as a whole fail to disclose or suggest all of the claimed limitations. Specifically, the references fail to disclose or suggest an implantable intraluminal scaffold, a polymeric solution comprising a least one of PBMA and PEVA, a pharmaceutically active agent and a separate and distinct antioxidant that is incorporated into the mixture of the polymeric solution and agent such that it is proximate and mixes more closely with the agent than the polymer. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

A favorable action on the merits is earnestly solicited.

Respectfully submitted,

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